



General Assembly

February Session, 2018

Raised Bill No. 404

LCO No. 421



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

AN ACT CONCERNING MANDATED REPORTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 17a-101 of the 2018 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective July 1, 2018*):

4 (b) The following persons shall be mandated reporters: (1) Any
5 physician or surgeon licensed under the provisions of chapter 370, (2)
6 any resident physician or intern in any hospital in this state, whether
7 or not so licensed, (3) any registered nurse, (4) any licensed practical
8 nurse, (5) any medical examiner, (6) any dentist, (7) any dental
9 hygienist, (8) any psychologist, (9) any school employee, as defined in
10 section 53a-65, (10) any social worker, (11) any person who holds or is
11 issued a coaching permit by the State Board of Education, is a coach of
12 intramural or interscholastic athletics and is eighteen years of age or
13 older, (12) any individual who is employed as a coach or director of
14 youth athletics and is eighteen years of age or older, (13) any
15 individual who is employed as a coach or director of a private youth
16 sports organization, league or team and is eighteen years of age or

17 older, (14) any paid administrator, faculty, staff, athletic director,
 18 athletic coach or athletic trainer employed by a public or private
 19 institution of higher education who is eighteen years of age or older,
 20 excluding student employees, (15) any police officer, (16) any juvenile
 21 or adult probation officer, (17) any juvenile or adult parole officer, (18)
 22 any member of the clergy, (19) any pharmacist, (20) any physical
 23 therapist, (21) any optometrist, (22) any chiropractor, (23) any
 24 podiatrist, (24) any mental health professional, (25) any physician
 25 assistant, (26) any person who is a licensed or certified emergency
 26 medical services provider, (27) any person who is a licensed or
 27 certified alcohol and drug counselor, (28) any person who is a licensed
 28 marital and family therapist, (29) any person who is a sexual assault
 29 counselor or a domestic violence counselor, as defined in section 52-
 30 146k, (30) any person who is a licensed professional counselor, (31) any
 31 person who is a licensed foster parent, (32) any person paid to care for
 32 a child in any public or private facility, child care center, group child
 33 care home or family child care home licensed by the state, (33) any
 34 employee of the Department of Children and Families, (34) any
 35 employee of the Department of Public Health, (35) any employee of the
 36 Office of Early Childhood who is responsible for the licensing of child
 37 care centers, group child care homes, family child care homes or youth
 38 camps, (36) any paid youth camp director or assistant director, (37) the
 39 Child Advocate and any employee of the Office of the Child Advocate,
 40 [and] (38) any family relations counselor, family relations counselor
 41 trainee or family services supervisor employed by the Judicial
 42 Department, and (39) any person who is a licensed behavior analyst or
 43 board certified assistant behavior analyst.

44 Sec. 2. (NEW) (*Effective October 1, 2018*) (a) As used in this section
 45 and section 3 of this act:

46 (1) "Abuse" means the wilful infliction of physical pain, injury or
 47 mental anguish, or the wilful deprivation by a caregiver of services
 48 which are necessary to maintain the physical and mental health of a
 49 patient;

50 (2) "Behavioral health facility" means any facility operated by the
51 Department of Mental Health and Addiction Services that provides
52 mental health or substance use disorder services to persons eighteen
53 years of age or older;

54 (3) "Patient" means any person receiving services from a behavioral
55 health facility;

56 (4) "Legal representative" means a court-appointed fiduciary,
57 including a guardian or conservator, or a person with power of
58 attorney authorized to act on a patient's behalf; and

59 (5) "Mandatory reporter" means (A) any person in a behavioral
60 health facility paid to provide direct care for a patient of such facility,
61 and (B) any employee, contractor or consultant of such facility who is a
62 licensed healthcare provider.

63 (b) Any mandatory reporter, who, in the ordinary course of such
64 person's employment, has reasonable cause to suspect or believe that
65 any patient (1) has been abused, (2) is in a condition that is the result of
66 abuse, or (3) has had an injury that is at variance with the history given
67 of such injury, shall, not later than seventy-two hours after such
68 suspicion or belief arose, report such information or cause a report to
69 be made in any reasonable manner to the Commissioner of Mental
70 Health and Addiction Services or to the person or persons designated
71 by the commissioner to receive such reports. Any behavioral health
72 facility providing direct care for patients shall provide mandatory
73 training on detecting potential abuse of patients to mandatory
74 reporters and inform such individuals of their obligations under this
75 section.

76 (c) Any mandatory reporter who fails to make a report under
77 subsection (b) of this section or fails to make such report within the
78 prescribed time period set forth in said subsection shall be fined not
79 more than five hundred dollars, except if such person intentionally
80 fails to make such report within the prescribed time period, such
81 person shall be guilty of (1) a class C misdemeanor for the first

82 violation, and (2) a class A misdemeanor for any subsequent violation.

83 (d) A report made under subsection (b) of this section shall contain
84 the name and address of the behavioral health facility, the name of the
85 patient, information regarding the nature and extent of the abuse and
86 any other information the mandatory reporter believes may be helpful
87 in an investigation of the case and for the protection of the patient.

88 (e) Any other person having reasonable cause to believe that a
89 patient is being or has been abused shall report such information in
90 accordance with subsection (b) of this section in any reasonable
91 manner to the Commissioner of Mental Health and Addiction Services
92 who shall inform the patient or such patient's legal representative of
93 the services of the nonprofit entity designated by the Governor in
94 accordance with section 46a-10b of the general statutes to serve as the
95 Connecticut protection and advocacy system.

96 (f) A report filed under this section shall not be deemed a public
97 record, and shall not be subject to the provisions of section 1-210 of the
98 general statutes. Information derived from such report for which
99 reasonable grounds are determined to exist after investigation,
100 including the identity of the behavioral health facility, the number of
101 complaints received, the number of complaints substantiated and the
102 types of complaints, may be disclosed by the Commissioner of Mental
103 Health and Addiction Services, except in no case shall the name of the
104 patient be revealed, unless such person specifically requests such
105 disclosure or unless a judicial proceeding results from such report.
106 Notwithstanding the provisions of this section, not later than twenty-
107 four hours or as soon as possible after receiving a report under this
108 section, the commissioner or the commissioner's designee shall notify
109 such person's legal representative, if any. Such notification shall not be
110 required when the legal representative is suspected of perpetrating the
111 abuse that is the subject of the report. The commissioner shall obtain
112 the contact information for such legal representative from the
113 behavioral health facility.

114 (g) (1) Subject to subdivision (2) of this subsection, any person who
 115 makes a report under this section or who testifies in any administrative
 116 or judicial proceeding arising from the report shall be immune from
 117 any civil or criminal liability with regard to such report or testimony,
 118 except liability for perjury in the context of making such report.

119 (2) Any person who makes a report under this section is guilty of
 120 making a fraudulent or malicious report or providing false testimony
 121 when such person (A) wilfully makes a fraudulent or malicious report,
 122 (B) conspires with another person to make or cause to be made such
 123 fraudulent or malicious report, or (C) wilfully testifies falsely in any
 124 administrative or judicial proceeding arising from such report
 125 regarding the abuse of a patient. Making a fraudulent or malicious
 126 report or providing false testimony under this section is a class A
 127 misdemeanor.

128 (h) Any person who is discharged or in any manner discriminated
 129 or retaliated against for making, in good faith, a report under this
 130 section shall be entitled to all remedies available under law.

131 Sec. 3. (NEW) (*Effective October 1, 2018*) (a) The commissioner, upon
 132 receiving a report under section 2 of this act that a patient is being or
 133 has been abused, shall investigate the report to determine the
 134 condition of the patient and what action and services, if any, are
 135 required. The investigation shall include (1) an in-person visit to the
 136 named patient, (2) consultation with those individuals having
 137 knowledge of the facts surrounding the particular report, and (3) an
 138 interview with the patient, unless the patient refuses to consent to such
 139 interview. Upon completion of the investigation, the commissioner
 140 shall prepare written findings that shall include recommended actions.
 141 Not later than forty-five days after completion of the investigation, the
 142 commissioner shall disclose, in general terms, the result of the
 143 investigation to the person or persons who reported the suspected
 144 abuse, provided: (A) The person who made such report is legally
 145 mandated to make such report, (B) the information is not otherwise
 146 privileged or confidential under state or federal law, (C) the names of

147 the witnesses or other persons interviewed are kept confidential, and
148 (D) the names of the person or persons suspected to be responsible for
149 the abuse are not disclosed unless such person or persons have been
150 arrested as a result of the investigation.

151 (b) The Department of Mental Health and Addiction Services shall
152 maintain a state-wide registry of the number of reports received under
153 this section, the allegations contained in such reports and the outcomes
154 of the investigations resulting from such reports.

155 (c) The patient's file, including, but not limited to, the original report
156 and the investigation report shall not be deemed a public record or
157 subject to the provisions of section 1-210 of the general statutes. The
158 commissioner may disclose such file, in whole or in part, to an
159 individual, agency, corporation or organization only with the written
160 authorization of the patient, the patient's legal representative or as
161 otherwise authorized under this section.

162 (d) Notwithstanding the provisions of subsection (c) of this section,
163 the commissioner shall not disclose the name of a person who reported
164 suspected abuse, except with such person's written permission or to a
165 law enforcement official pursuant to a court order that specifically
166 requires such disclosure.

167 (e) The patient or such patient's legal representative or attorney
168 shall have the right of access to records made, maintained or kept on
169 file by the department, in accordance with all applicable state and
170 federal law, when such records pertain to or contain information or
171 material concerning the patient, including, but not limited to, records
172 concerning investigations, reports or medical, psychological or
173 psychiatric examinations of the patient, except: (1) If protected health
174 information was obtained by the department from someone other than
175 a health care provider under the promise of confidentiality and the
176 access requested would, with reasonable likelihood, reveal the source
177 of the information; (2) information identifying the individual who
178 reported the abuse, neglect, or exploitation of the person shall not be

179 released unless, upon application made to the Superior Court by the
 180 patient and served on the Commissioner of Mental Health and
 181 Addiction Services, a judge determines, after in camera inspection of
 182 relevant records and a hearing, that there is reasonable cause to believe
 183 the individual knowingly made a false report or that other interests of
 184 justice require such release; (3) if it is determined by a licensed health
 185 care provider that the access requested is reasonably likely to endanger
 186 the life or physical safety of the patient or another person; (4) if the
 187 protected health information makes reference to another person, other
 188 than a health care provider, and a licensed health care provider has
 189 determined, in the exercise of professional judgment, that the access
 190 requested is reasonably likely to cause substantial harm to such other
 191 person; or (5) the request for access is made by the patient's legal
 192 representative, and a licensed health care provider has determined, in
 193 the exercise of professional judgment, that the provision of access to
 194 such legal representative is reasonably likely to cause harm to the
 195 patient or another person.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2018</i>	17a-101(b)
Sec. 2	<i>October 1, 2018</i>	New section
Sec. 3	<i>October 1, 2018</i>	New section

Statement of Purpose:

To add certain professions to the list of mandated reporters.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]